

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SPRAY MORET, LLC,

Plaintiff,

- against -

THE KAYO CORP. d/b/a DGK, FROM NOTHING,
LLC, JOHN DOES 1-10, and XYZ COMPANIES 1-10,

Defendants.

Civil Action No.
1:21-cv-00497-LAK-SN

**STIPULATED
JUDGMENT AND
PERMANENT INJUNCTION
AGAINST DEFENDANTS**

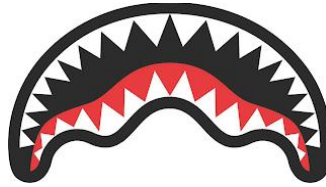
Plaintiff Spray Moret, LLC (“Plaintiff”) having filed its Complaint on January 20, 2021 (the “Complaint”), and Defendants The Kayo Corp. d/b/a DGK and From Nothing, LLC (collectively, “Defendants”) having consented, without trial or adjudication of any issue of law or fact herein, to entry of this Stipulated Judgment and Permanent Injunction Against Defendants (hereafter, “Order”), it is hereby

ORDERED, ADJUDGED and DECREED that:

1. This Court has jurisdiction of the subject matter hereof and all parties hereto with the full power to enter this Order. The Complaint alleges causes of action against Defendants for copyright infringement under the United States Copyright Act of 1976, as amended (the “Copyright Act”), 17 U.S.C. § 101 *et seq.*, trademark infringement under Section 32(1) of the United States Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. § 1114(1); unfair competition and false endorsement under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); and related claims under New York’s statutory and common law.

2. Plaintiff is the owner of the SPRAYGROUND brand, which specializes in, among other things, fashion products, bags, luggage and backpacks of all types, various types of fashion and other accessory items, and skateboards.

3. Since at least as early as January 2012, the SPRAYGROUND brand has sold a wide variety of products bearing the distinctive mouth design depicted below:



4. Among its intellectual property, Plaintiff owns rights around the world, including in the United States, for the mouth design depicted above, and marks and works of visual art similar thereto, including federally registered copyrights and trademarks, as well as pending trademark applications, including, but not limited to: (1) U.S. Copyright Registration No. VA0002152578; (2) U.S. Copyright Registration No. VAU1062142; (3) U.S. Copyright Registration No. VA2124144; (4) U.S. Copyright Registration No. VAU1337331; (5) U.S. Copyright Registration No. VA1859696; (6) U.S. Trademark Registration No. 4,781,961; (7) U.S. Trademark Registration No. 5,536,183; (8) U.S. Serial No. 88/578,391; (9) U.S. Trademark Registration 5,787,975; (10) U.S. Trademark Registration 5,787,974; (11) U.S. Serial No. 88/455,244; and (12) U.S. Trademark Registration 5,786,776. All iterations of Plaintiff's mouth design, including those subject to the copyright and trademark filings referenced herein and marks to which Plaintiff has common law rights, are collectively referred to herein as the "Mouth Design."

5. Plaintiff has alleged that Defendants have willfully traded upon the goodwill and notoriety of Plaintiff by selling unauthorized skateboards bearing Plaintiff's Mouth Design and/or a design substantially or confusingly similar thereto ("Defendants' Products") and by displaying said design and Defendants' Products in related marketing materials, as depicted below:



6. Defendants filed an amended answer, denying liability regarding the Claims asserted by Plaintiff, together with counterclaims seeking a declaratory judgment of no liability, declarations of invalidity of Plaintiff's asserted copyrights and cancellation of Plaintiff's asserted trademarks.

7. In order to resolve this action without incurring further costs and expenses, Defendants have stipulated and agreed for themselves and on behalf of each of their respective parents, subsidiaries, affiliates, licensees, successors in interest and/or assigns, to be permanently enjoined from using the design depicted in paragraph 5 above or the Mouth Design and/or a design confusingly similar thereto.

8. If Plaintiff moves to enforce this Order against Defendants, Plaintiff shall be entitled to pursue any and all remedies available to it for such violation, including, but not limited to, seeking an order finding Defendants jointly and severally in contempt of the Order, and the prevailing party shall be entitled to an award of damages, attorneys' fees and costs incurred.

9. The parties stipulate that, except as otherwise provided herein and in a Confidential Settlement Agreement between them, all claims and counterclaims filed on March 25, 2021 (Dkt. 29) in this action are hereby dismissed with prejudice.

10. Each person executing this Order on behalf of a corporation or individual represents that he or she is authorized to do so.

11. This Court shall retain jurisdiction over this action to enable the parties to make application to this Court for such further orders and directions as may be necessary or appropriate in relation to the carrying out of this Order, enforcing the parties' settlement agreement, and entering a confession of judgment.

12. This Order shall become effective immediately. The Clerk is directed to enter this Judgment and Permanent Injunction on Consent Against Defendants and close this case.

We hereby consent to the form and entry of the foregoing Order.

SPRAY MORET, LLC

By: Arthur Lachman

Name: Arthur Lachman

Title: Chief Operating Officer

Date: 7.7.21

THE KAYO CORP. d/b/a DGK

By: _____

Name: _____

Title: _____

Date: _____

FROM NOTHING, LLC

By: _____

Name: _____

Title: _____

Date: _____

SO ORDERED.

Dated: _____

Lewis A. Kaplan
United States District Judge

We hereby consent to the form and entry of the foregoing Order.

SPRAY MORET, LLC

By: _____

Name: _____

Title: _____

Date: _____

THE KAYO CORP. d/b/a DGK

By: Troy Morgan

Name: Troy Morgan

Title: President

Date: 7-7-21

FROM NOTHING, LLC

By: Troy Morgan

Name: Troy Morgan

Title: President

Date: 7-7-21

SO ORDERED.

Dated: 07/14/2021

/s/ Lewis A. Kaplan /BT

Lewis A. Kaplan
United States District Judge